

Application No.: 10/587,498
Amendment and Response dated January 19, 2010
Reply to Office Action of October 19, 2009
Docket No.: 903-196 PCT/US/RCE
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Remarks/Arguments:

Introduction

Claims 1, 16, 18-21 have been amended to limit the high kinetic energies to those of 20 g or higher. Support for the claim amendments maybe found in the Specification at paragraph [0021].

No new matter is introduced with these amendments. Entry of the amendments is respectfully requested.

Applicants than the examiner for the indication of allowable subject in previously presented claims 3 and 16.

Section 102/103 Rejections

Claims 1-2, 4-8 and 10-21 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Brittan\in, Harry G. "Effects of Mechanical Processing on Phase Compositions", J. Pharm. Sci. (7), 1573-80, June 27, 2001 (hereinafter "Brittain") or in the alternative as allegedly being obvious under 35 U.S.C. § 103(a) over Brittain. Applicants respectfully traverse.

The Examiner acknowledges that Brittain fails to disclose teach or suggest using high kinetic energies of 35 g to 50 g and higher. Applicants respectfully submit that Brittain further fails to disclose teach or suggest using high kinetic energies of 20 g or higher

Accordingly, Brittain fails to disclose, teach or suggest the present invention as presently defined by independent claims 1, 16, 18-21. Reconsideration and withdrawal of the Section 102/103 rejections of independent claims 1, 16, 18-21, and al claims dependent therefrom, are respectfully requested.

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Summary

Therefore, Applicants respectfully submit that independent claims 1, 16 and 18-21, and all claims dependent therefrom, are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

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